

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA,

v.

COLIN F. GORDON,

Defendant.

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Case No. 3:04CR00023

ORDER

By: James P. Jones

United States District Judge

For the reasons set forth in the Opinion accompanying this Order, it is
ORDERED as follows:

1. The defendant's motion, styled as "MOTION PURSUANT TO Federal Rule Crim. P. 36," (ECF No. 266), is DENIED, and the defendant's submission is CONSTRUED as a Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C.A. § 2255;
2. The Clerk is DIRECTED to redocket the motion as a § 2255 motion;
3. The § 2255 motion is hereby DENIED without prejudice as successive and stricken from the active docket; and

4. A Certificate of Appealability is DENIED, based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right.

ENTER: December 10, 2012

/s/ James P. Jones
United States District Judge